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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

5 WILLIAM ROBERT KENNEDY,

Case No.: [14-cv-05516-JSC](#)

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Plaintiff,

**ORDER DISMISSING UNSERVED
DEFENDANTS WITHOUT PREJUDICE**

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v.

WORLD SAVINGS BANK, FSB, et al.

Defendant(s).

United States District Court
Northern District of California

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Plaintiff William R. Kennedy (“Plaintiff”), proceeding pro se, filed this action in state court on September 26, 2014 to prevent foreclosure of his home. He sues Defendants World Savings Bank, FSB (“World Savings Bank”), the originator of the loan; the Bank of New York as Trustee for Securitized Trust World Savings Bank Mortgage pass-through Certificates REMIC 19 Trust (“REMIC 19 TRUST”); Mortgage Electronic Registration System (“MERS”); Wells Fargo Bank (“Wells Fargo”); and Does 1 through 100 (collectively “Defendants”), all of whom were allegedly involved the securitization of Plaintiff’s mortgage. Defendant Wells Fargo removed the action to this Court on December 18, 2014 contending, among other things, that the other defendants are fraudulently joined. None of the other defendants have made an appearance, and it does not appear that any have been served.

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Federal Rule of Civil Procedure 4(m) provides that service of the summons and complaint must be made on a defendant within 120 days of the filing of the complaint. If service is not made, the unserved defendants should be dismissed without prejudice. As service has not been made on any of the defendants except for Wells Fargo, Plaintiff is ordered to show cause why the other defendants should not be dismissed without prejudice. In particular, if Plaintiff desires to proceed with service of

1 the unserved defendants, and believes there is good cause for his failure to do so thus far, he must file
2 a written response explaining why these defendants have not been served. **The response must be**
3 **filed on or before May 1, 2015.** Plaintiff is warned that his failure to file a response will result in
4 dismissal of the unserved defendants without prejudice. The Court notes that Wells Fargo has
5 asserted that the unserved defendants are not proper defendants to this action and that Wells Fargo has
6 appeared and is defending this lawsuit. Accordingly, Plaintiff may decide that there is no need to
7 proceed with the action against the unserved defendants. If so, Plaintiff need not file anything by May
8 1, 2015.

9 **IT IS SO ORDERED.**

10 Dated: April 22, 2015

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12 JACQUELINE SCOTT CORLEY
13 UNITED STATES MAGISTRATE JUDGE
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